

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MARK ANTHONY BAIAMONTE (#101123), *

Plaintiff *

v. * C.A. 02-3567

JAMES JANECKA, Warden of the George W. Hill *
Correctional Facility, et al.

Defendants *

* * * * *

MOTION OF DEFENDANTS DRYDEN AND RUARK TO DISMISS

Defendants Catherine D. Dryden, Commissioner of the District Court of Maryland in District 2 (Wicomico County, Maryland), and Davis R. Ruark, State's Attorney of Wicomico County, Maryland, by their attorneys, J. Joseph Curran, Jr., Attorney General of Maryland, and Julia M. Andrew, Assistant Attorney General, move pursuant to Federal Rule of Civil Procedure 12(b)(2) for dismissal of Plaintiff's complaint against them for failure to state a claim upon which relief can be granted. In support of their motion, Defendants Dryden and Ruark rely on the accompanying memorandum and state as follows.

1. Plaintiff's complaint fails to state a claim against Defendants Dryden and Ruark upon which relief can be granted because it does not identify any conduct by these Defendants that deprived Plaintiff of a federally protected right.

2. Plaintiff's complaint fails to state a claim against Defendants Dryden and Ruark upon which relief can be granted because the action against them is barred by Eleventh Amendment immunity, Defendant Dryden is entitled to judicial immunity, and Defendant Ruark is entitled to

prosecutorial immunity.

WHEREFORE, the Court is requested to dismiss Plaintiff's complaint against Defendants Dryden and Ruark.

Respectfully submitted,

J. JOSEPH CURRAN, JR.
Attorney General of Maryland

JULIA M. ANDREW
Assistant Attorney General
200 St. Paul Place
Baltimore, Maryland 21202
(410) 576-7292

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of September, 2002, a copy of the foregoing Motion to Dismiss and the accompanying Memorandum was mailed, postage prepaid, to Mark Anthony Baiamonte (#101123), Allegheny County Jail, 950 2nd Avenue, Pittsburg, Pennsylvania 15219, Plaintiff pro se.

JULIA M. ANDREW,
Assistant Attorney General